

Appl. No.: 10/022,524  
Amdt. dated 10/20/2005  
Reply to Office action of 04/20/2005

### REMARKS

This amendment is submitted with a Request for Continued Examination in response to the Final Office Action dated April 20, 2005.

Applicants gratefully acknowledge the Examiner's indication that claims 6, 7, 10, 16, 17 and 20 contain allowable subject matter. Claims 1-3, 5, 8, 9, 11-13, 15, 18 and 19 currently stand rejected. In reply, Applicants respectfully submit a Request for Continued Examination, the requisite fee, an amendment, and the present remarks. Applicants have amended independent claims 1, 2, 11 and 12 in order to further patentably distinguish these independent claims and their respective dependent claims from the cited references. Claim 15 has been amended to improve clarity and readability. No new matter has been added by the amendment.

In light of the amendment and the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present application.

#### Claim Rejections Under 35 U.S.C. §102(e)

Claims 1, 2, 11 and 12 were rejected under 35 U.S.C. §102(e) as being anticipated by Beamish et al., (U.S. Patent No. 6,694,143, hereinafter "Beamish").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). It is submitted that Beamish fails to teach each and every element as set forth in independent claims 1 and 11 for at least the reasons described below.

Applicant has amended independent claims 1 and 11 to recite, *inter alia*, a controller having user selectable modes, wherein one of the user selectable modes is a scanner mode which causes the wireless terminal to scan received wireless signals to determine whether identifying wireless signals corresponding to a target device have been received. In other words, a user selects the scanner mode from one of multiple user selectable modes of a wireless terminal. When the wireless terminal is in scanner mode, the wireless terminal scans received wireless signals. Additionally, the wireless terminal determines whether identifying wireless signals corresponding to a target device have been received.

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Beamish discloses a wireless communications system (10) that can transmit data to or receive data from a communication device (30) within range of the wireless communications system (10) (col. 6, lines 1-3). However, Beamish is directed to enabling the wireless communications system (10) to control operation of any wireless communication devices (30) within its range (Title and Abstract). Beamish is therefore directed to an endeavor completely different to that of the present invention. Furthermore, Beamish fails to teach or suggest each and every element of the claimed invention as recited in independent claims 1 and 11 for each of the reasons set forth below.

**I. Beamish fails to teach or suggest a user selectable scan mode.**

Beamish discloses certain modes for the communication device (30) to include vibrate mode and ringing mode, however, such modes are disclosed as being selected responsive to a command from the wireless communications system (10) (col. 2, lines 25-28). Furthermore, Beamish discloses that the communication device (30) may have operating characteristics, features and functions (col. 4, lines 41-43), which one may arguably construe as operational modes. However, Beamish only discloses that either the wireless communications system (10) sends a command to change such operating characteristics and functions, or the communication device (30) automatically changes the operating characteristics and functions when the communication device (30) detects that it is in range of the wireless communications system (10) (col. 4, lines 50-58). Furthermore, Beamish specifically teaches that such functions and operating characteristics may be changed without user intervention or knowledge (col. 4, lines 60-62). Accordingly, even were it assumed that such functions and operating characteristics constituted a mode (an assumption with which Applicants expressly disagree), Beamish still fails to teach or suggest a user selectable scan mode as claimed in independent claims 1 and 11. It should be noted that the control logic cited by the Office Action at col. 4, lines 36-40, fails to teach or suggest any user selectable mode, generally, and a user selectable scanner mode, specifically.

Furthermore, as stated above, Beamish is directed to enabling the wireless communications system (10) to control operation of any wireless communication devices (30)

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within its range using exchanged data and commands (Title and Abstract). Thus, allowing a user to disable the ability of the wireless communications system (10) to control operation the user's wireless communication devices (30) would be highly undesirable since certain individuals could circumvent the control operation of the wireless communication system (10) and, for example, allow their communication device (30) to ring in an improper location. Thus, Beamish teaches away from user selectable modes. Thus, Beamish fails to teach or suggest a controller having user selectable modes, wherein one of the user selectable modes is a scanner mode which causes the wireless terminal to scan received wireless signals to determine whether identifying wireless signals corresponding to a target device have been received as claimed in independent claims 1 and 11.

Accordingly, independent claims 1 and 11 are believed to be patentably distinct and nonobvious in view of Beamish. Claims 2 and 12 depend directly from corresponding independent claims 1 and 11, and thus include all the recitations of their corresponding independent claims. Therefore, dependent claims 2 and 12 are believed to be patentable for at least the reasons given above for independent claims 1 and 11.

Additionally, although dependent claims 2 and 12 are patentable at least due to dependency from their corresponding independent claims 1 and 11, it is submitted that each of these claims recites additional features that are patentably distinct over Beamish. For example, dependent claims 2 and 12 each recite, *inter alia*, the user selectable modes include a target mode. As stated above, Beamish fails to disclose any user selectable modes generally. Accordingly, Beamish fails to teach or suggest a user selectable target mode as claimed in dependent claims 2 and 12.

## **II. Beamish fails to teach or suggest a scanner mode as claimed.**

According to independent claims 1 and 11, being in scanner mode causes the wireless terminal to scan received wireless signals. The wireless terminal scans the received wireless signals to determine whether identifying wireless signals corresponding to a target device have been received. Since the wireless terminal performs the above described scan function when in the scanner mode, the claimed invention is directed to a non-continuous scanning function which

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operates responsive to being in the scanner mode. Such non-continuous feature associated with the scanner mode is inherent in the claimed invention.

To the contrary, although Beamish discloses either a detector in a communication device (30) for determining whether the communication device (30) is within range of a wireless communications system (10) (col. 4, lines 31-35) or a wireless communications system (10) that knows when a wireless communication device (30) enters the operative range of the wireless communications system (10) (col. 4, lines 13-15), Beamish fails to teach or suggest that such features are operated in a non-continuous manner responsive to being in a particular mode. In fact, non-continuous operation of such features would defeat the purpose of the Beamish system. As previously stated, Beamish is directed to enabling the wireless communications system (10) to control operation of any wireless communication devices (30) within its range using exchanged data and commands (Title and Abstract). For example, the wireless communications system (10) is used in concert halls, movie theaters, churches, restaurants, meeting rooms, conference rooms, etc. to instruct all communication devices (30) in range to turn off, ring silent, vibrate, etc. (col. 5, lines 5-10). Thus, non-continuous operation of the Beamish system would be highly disadvantageous since it would defeat the express purpose of allowing control of all communication devices (30) in the above described scenarios. Accordingly, if one assumes for the sake of argument that Beamish discloses a scanning function (an assumption with which Applicants expressly disagree), Beamish still fails to teach a non-continuous nature to such scanning function associated with a particular mode. Instead, Beamish teaches away from such non-continuous operation in favor of a continuous ability to control communication devices (30) in range of a wireless communications system (10).

It should be noted that Beamish discloses an embodiment in which "quiet" functions as described above may be implemented during certain times of the day (col. 5, lines 18-20). However, such disclosure fails to teach or suggest non-continuous operation of a scanning function associated with a particular mode. Rather, such disclosure only suggests non-continuous exertion of the power to command communication devices (30).

Accordingly, for the reasons stated above, Beamish fails to teach or suggest a scanner mode as claimed in the claimed invention.

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### III. Conclusion

In summary, even assuming for the sake of argument that Beamish discloses a scanner mode or a target mode as claimed in the claimed invention (an assumption with which the Applicants expressly disagree), such modes are not user selectable as recited in the claimed invention. Furthermore, Beamish fails to teach or suggest non-continuous operation of a scanning function associated with a particular mode. To allow non-continuous operation of a scanning function, and indeed to permit such non-continuous operation to be user controlled, would defeat the purpose of Beamish.

Accordingly, for all the reasons stated above, Applicants respectfully submit that the rejections of claims 1, 2, 11 and 12 under 35 U.S.C. §102(e) are overcome.

### Claim Rejections - 35 USC §103

Claims 3, 5, 8, 9, 13, 15, 18 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Beamish in view of Hendrey et al. (U.S. Patent No. 6,539,232, hereinafter "Hendrey"). Claims 5 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Beamish in view of Hendrey and further in view of Shapira (U.S. Patent No. 5,086,394).

As stated above, Beamish fails to teach or suggest a controller having user selectable modes, wherein one of the user selectable modes is a scanner mode which causes the wireless terminal to scan received wireless signals to determine whether identifying wireless signals corresponding to a target device have been received as claimed in independent claims 1 and 11.

Hendrey is directed to a method and system for connecting proximately located telecommunications units. Shapira is directed to an introduction system for locating compatible persons. Both Hendrey and Shapira fail to teach or suggest a controller having user selectable modes, wherein one of the user selectable modes is a scanner mode which causes the wireless terminal to scan received wireless signals to determine whether identifying wireless signals corresponding to a target device have been received as recited in independent claims 1 and 11. Furthermore, neither Hendrey nor Shapira are cited as disclosing such feature.

Since Beamish, Hendrey and Shapira each fail to teach or suggest the aforementioned

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features of independent claims 1 and 11, any combination of Beamish, Hendrey and Shapira also fails to teach or suggest the subject matter of independent claims 1 and 11. Thus, Beamish, Hendrey and Shapira, taken either individually or in combination, do not anticipate, or render independent claims 1 and 11 obvious. Claims 3, 5, 8, 9, 13, 15, 18 and 19 depend either directly or indirectly from a respective one of independent claims 1 and 11, and as such, include all the recitations of their respective independent claims. The dependent claims 3, 5, 8, 9, 13, 15, 18 and 19 are therefore patentably distinct from the cited references, individually or in combination, for at least the same reasons as given above for independent claims 1 and 11.

Accordingly, Applicants respectfully submit that the rejections of claims 3, 5, 8, 9, 13, 15, 18 and 19 are overcome.

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### CONCLUSION

In view of the amended claims and the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Chad L. Thorson  
Registration No. 55,675

Customer No. 00826  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

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